IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

Crl.MC.No. 3643 of 2007()

CC.31/2007 OF THE JFCM COURT-IV, NEYYATTINKARA.

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PETITIONER:

ANIL KUMAR,
"USHUS", RAMAPURAM,
THANNIMOOD,
THIRUVANANTHAPURAM.

BY ADV. SRI.B.S.SWATHY KUMAR

RESPONDENTS:

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1. PERUMAL PILLA, S/O. KOLAPPA PILLA,
PERUMAL BUILDINGS, KADAVATTARAM,
NEYYATTINKARA.

2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 6/12/07, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3643 OF 2007

Dated this the 5th day of December, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. The case stood posted for cross-examination of the complainant on 21/11/07. On that day, it is submitted, the learned counsel could not appear as the brother of the counsel had expired. The court closed the evidence and posted the case for hearing to 26/11/07. On that day, an application was filed to re-open the evidence and give the petitioner an opportunity to cross-examine the complainant. It is submitted that on that day also the complainant could not be cross-examined. The case is now posted to tomorrow – 6/12/07. It is submitted by the petitioner in the petition that the learned counsel has an unavoidable difficulty tomorrow also in connection with the

obsequies to be performed in respect of the death of his brother. The petitioner has hence rushed to this Court with this petition.

2. Inconvenience of the counsel will certainly be taken note of by the court and accommodation granted wherever possible. If it is the personal difficulty of the counsel, for the reasons mentioned at the Bar before me, I will refuse to believe that the learned Magistrate would not give the requisite accommodation. Any court, worth it salt, must consider the plight of the counsel and give appropriate accommodation. But certainly the counsel cannot ask for an indefinite adjournment. If he is not able to appear on the 6th, he will have to appear on the 7th and do the cross- examination. If it is inconvenient for him on the 7th also, he will have to take the court into confidence and satisfy the court that 7th is also inconvenient and it may be posted to the next date. Adjournment for a week which is the first prayer made at the Bar does not at all impress me as proper.

3. I need not issue any directions as to the manner in which the learned Magistrate must consider the prayer of the petitioner's counsel on the 6th. The learned counsel must file an affidavit specifying his difficulty, if any, and must satisfy why the next day and the day after the next day are not convenient to

him. He must specify the date on which he will be able to appear and take part for trial. The request must certainly be considered by the learned Magistrate on merits and with compassion.

4. With the above observations, this Crl.M.C. is dismissed.

5. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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//true copy//

P.S. to Judge